

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CENTRAL STATES, SOUTHEAST AND)
SOUTHWEST AREAS PENSION FUND,)
and HOWARD McDougall, trustee,)
Plaintiffs,) Case No. 09 C 1112
v.) District Judge Joan Humphrey Lefkow
AMERICAL, LLC, a Michigan limited) Magistrate Judge Susan E. Cox
liability company,)
Defendant.)

**PLAINTIFFS' MOTION FOR REINSTATEMENT
AND FOR ENTRY OF JUDGMENT IN ACCORDANCE WITH
SETTLEMENT AGREEMENT**

NOW COME Central States Southeast and Southwest Areas Pension Fund ("Pension Fund") and Howard McDougall, trustee, and hereby request that this Court reinstate this case and enter a Judgment in accordance with the parties' Settlement Agreement against Defendant Americal LLC, a Michigan limited liability company ("Americal"), pursuant to an Agreed Order entered by this Court on May 26, 2009. In support of this motion, the Plaintiffs state as follows:

1. On February 20, 2009 Plaintiffs filed a Complaint against Americal in accordance with the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001, et seq., as amended by the Multiemployer Pension Plan Act Amendments of 1980, to recover delinquent employer contributions due and owing to the Pension Fund by Americal as well as interest, liquidated damages, and attorneys' fees and costs.

2. On May 4, 2009, Plaintiffs and Defendant entered into a Settlement Agreement for the resolution of Plaintiffs' claim.

3. On May 26, 2009, this Court entered an Agreed Order of the parties whereby this Court would retain jurisdiction to enforce the parties' Settlement Agreement with leave to reinstate the case on or before August 31, 2009. (See Agreed Order attached hereto as Exhibit A).

4. Pursuant to the Settlement Agreement, Americal agreed to pay the total of its delinquent contributions, interest, liquidated damages and attorneys fees by making a lump sum payment and subsequent weekly installment payments until the balance was repaid.

5. Americal additionally agreed that it would continue to timely pay its ongoing contribution obligation to the Pension Fund throughout the term of the payment plan.

6. Americal is now in default of the Settlement Agreement, having failed to pay \$246.00 remaining under the payment plan in addition to its benefit contribution payments for the months of June and July 2009, totaling \$2,203.20. (See Affidavit of Juan J. Beaton, attached hereto as Exhibit B).

7. The parties' Settlement Agreement additionally provided that Americal is responsible for the payment of all attorneys' fees and costs incurred by the Pension Fund to enforce the Agreement. (See Affidavit of Laura B. Bacon, attached hereto as Exhibit C).

8. The Plaintiffs request that judgment be entered in their favor in the following amounts:

Payment plan balance	\$246.00
June and July contributions	\$2,203.20

Interest	\$6.72
Liquidated Damages	\$440.64
Attorney fees	<u>\$1,802.00</u>
TOTAL	\$4,698.56

The affidavits attached hereto as Exhibits A and B verify the above amounts.

WHEREFORE, Plaintiffs Central States Southeast and Southwest Areas Pension Fund and Howard McDougall, trustee, hereby request that this Court reinstate their case against Defendant Americal LLC, a Michigan limited liability company, pursuant to this Court's Order dated May 26, 2009, and enter judgment in accordance with the parties' Settlement Agreement.

Respectfully submitted,

/s/ Laura B. Bacon
Laura B. Bacon
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